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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,797

01/25/2006

David Lazare Prax

6669/PCT

9647

6858 7590 10/01/2008

BREINER & BREINER, L.L.C.

P.O. BOX 320160

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EXAMINER

MAI, THIEN T

ART UNIT

PAPER NUMBER

2887

MAIL DATE

DELIVERY MODE

10/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/565,797	Applicant(s) PRAX ET AL.	
	Examiner Thien T. Mai	Art Unit 2887	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priorities

Applicants are respectfully requested to indicate priority reference in the first paragraph of specification. Further, it appears that certified foreign documents have not been submitted for the foreign priority claim. Clarifications requested.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim(s) 1-32 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Popovich (WO 95/28695) in view of Kuna et al. (4,729,564) and Frazer et al. (EP 0281 257).

Re claim 1-10, 13-14, 18-19, 21-22, 24-25, 30-32, Popovich discloses combination comprising a printed material and sensor 4; the sensor having a display that displays a human face 10 (Fig. 1A);

The sensor senses invisible barcode, on a substrate, that is not comprehensible to a human observer; upon reading the barcode, an audio response to supplement video images displaying differing conditions represented by the barcode (Fig. 1, 2, page 4). Popovich further discloses from page 1 that a sensor can be made to resemble a pen for educational/amusement use; from page 2 that at least 3 levels of infrared can be determined from a property on a medium.

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Popovich is silent with respect to a sensor resembling humanoid and does not teach a pressure operated switch operated when pressed against the printed material.

Frazer discloses an elongate amusement apparatus 10 having a pressure-operated switch at one end of a sensor for causing a reading of printed question/answer intelligent area upon pressing against the printed material (col. 1 lines 5+, col. 5 lines 10+, col. 7 lines 1+). Frazer further discloses the sensor is configured to distinguish regions of different categories represented by different barcode/symbols (Fig. 1-2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Frazer to allow triggering a reading of the barcode with the use of a pressure operated switch causing a code reading conveniently upon pressing against the printed material, thereby freeing the other hand from pressing a button elsewhere to execute the reading.

Kuna et al. indicates that making a sensor into a humanoid is old and within the skills of an ordinary artisan, in which it discloses a sensor that resembles a humanoid (Fig. 1-2) that displays a different expression and sound in response reading a barcode by a sensor head. Kuna further teaches a barcode can be identified with a combination of at least two properties including number, size, color, and shape. In addition, according to Kuna, a 7-bar-code 40 can represent a combination of 128 properties or 2^7 properties (col. 1 lines 50-60). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Kuma in order to further enhance the learning and/or teaching process by providing a "lively" humanoid.

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Re claim 11-12, the combined references teach a sensor for sensing a value of at least 2 properties of an area (pages 1-3 of Popovich describes a printed ink with different grey scales or infrared properties detectable with plurality of LED's each to illuminate each corresponding bar position at a different wavelength).

Re claim 15-17, 20, 23, 29, see discussion regarding claim 11 above. Frazer teaches the sensor is capable of distinguishing at least 5 categories (i.e. fruits, vegetables, nuts, program areas, verifier triangle, answers A-E, ...) in a set of at least 5 printed areas shown in Fig. 1-2. Page 3 line 40+ discusses programming capability of the sensor sensing the property with different activities and outcomes.

Re claim 26-28, 31-32, since the claim limitations do not define the levels, it is interpreted as the intensity in the inks that yield (infrared/UV ink and/or visible coloring properties) and require a specific range of frequency detection to decode. Both Popovich and Frazer et al. teach invisible or inherently infrared/UV ink as well as visible ink printed on the print medium in the form of bars in the barcode, each of which require an LED tuned to a correct range of frequencies.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Frazer; Stephen O. et al. US 4604065 A Teaching or amusement apparatus

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Nojiri; Tadao US 7032823 A1 Two-dimensional code, methods and apparatuses for generating, displaying and reading the same

Mulla, Altaf et al. US 20020162891 A1 Writing instrument with laser pointer and bar code reader

Lee, Martin US 20020117549 A1 Barcode-readable computer mouse

Dvorkis; Paul et al. US 6491225 B1 Electro-optical reader with electronic stylus

Buckley; John E. et al. US 6446871 B1 Method and apparatus for storing reference codes in a writing instrument and for retrieving information identified by the reference codes

Nathanson; Harvey C. et al. US 7164811 B2 Pocket-pen ultra-high resolution MEMS projection display in combination with on-axis CCD image capture system including means for permitting 3-D imaging

Parry; Rhys Evan US 6148331 A Destination website access and information gathering system

Sekendur; Oral F. US 5852434 A Absolute optical position determination

Lazzouni; Mohamed et al. US 5661506 A Pen and paper information recording system using an imaging pen

Wellner; Pierre David US 5640193 A Multimedia service access by reading marks on an object

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Yoshida; Kenji US 20060154559 A1 Information reproduction/i/o
method using dot pattern, information reproduction device, mobile information i/o
device, and electronic toy

Maggiore; Albert P. et al. US 6991511 B2 Expression-varying device

Matsuoka; Tsunetaro et al. US 6615109 B1 System and method for
generating an action of an automatic apparatus

Cusolito; Alan J. US 5816886 A Sentence forming toy vehicle track set

Parker; Andrew J. et al. US 6507773 B2 Multi-functional robot with remote
and video system

Hornsby, James R. et al. US 20020123297 A1 Card interactive
amusement device

Dubois; David M. et al. US 6997773 B1 Moveable toy with corresponding
audio and visual outputs

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Thien T. Mai whose telephone number is 571-272-8283.
The examiner can normally be reached on Monday through Friday, 8:00 - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Steve S. Paik can be reached on 571-272-2404. The fax phone number for
the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thien T Mai/
Examiner, Art Unit 2887

/Thien M. Le/
Primary Examiner, Art Unit 2887